

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

TRAVIS S. SWEIGART

Plaintiff

v.

KEVIN J. PATTEN and VOYAGER
TRUCKING CORP.

Defendants

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DOCKET NO.: _____

NOTICE OF REMOVAL

TO THE CLERK:

Pursuant to the Federal Removal Statute, 28 U.S.C. §§ 1441-1446, Defendants Kevin J. Patten ("Mr. Patten") and Voyager Trucking Corp. ("Voyager") seek to remove an action now pending against them in the Court of Common Pleas, Philadelphia County, Civil Division, February 2021 Term, Docket No.: 00025 to this Honorable Court, and in support thereof, aver the following:

1. Plaintiff Travis Sweigart ("Sweigart") commenced this action against Defendants by filing a Complaint on January 29, 2021. (A true and correct copy of the Complaint is attached as Exhibit "A").

2. This Civil Action seeks damages for personal injuries arising out of a motorcycle accident that occurred on September 9, 2019. (Exhibit "A", paragraph 26).

3. The accident occurred on State Highway Route 10 near the Exit 1 off-ramp from Interstate 176 in Caernarvon Township, Pennsylvania. (Exhibit "A", paragraphs 26 and 27).

A. The Plaintiff And Defendants Are Citizens Of Different States

4. Plaintiff Sweigart resides at 1396 Geigertown Road, Geigertown, Berks County, Pennsylvania 19523. Sweigart is a citizen of the Commonwealth of Pennsylvania. (See Exhibit “A”, paragraph 11).

5. Defendant Patten is a citizen of the State of New Jersey and resides at 450 Park Avenue, Paterson, Passaic County, New Jersey 07504.

6. Defendant Voyager is a New Jersey corporation with its principal place of business at 451 Frelinghuysen Avenue, Newark, Essex County, New Jersey.

B. As Required By 28 U.S.C. § 1332, Plaintiff Asserts A Claim In Excess of \$75,000

7. Sweigart’s Complaint seeks recovery in excess of the Philadelphia Court of Common Pleas’ mandatory arbitration limit in an amount “in excess of \$50,000”. (See Exhibit “A”, Wherefore Clause).

8. In determining the amount in controversy for federal diversity jurisdiction, “[t]he amount in controversy is not measured by the low end of an open-ended claim, but rather by a reasonable reading of the value of the rights being litigated”. See, Johnson v. Costco Wholesale, 1999 US Dist. LEXIS 14496, *8 (E.D. Pa. Sept. 22, 1999)(citing Angus v. Shiley, Inc., 989 F.2d 142, 146 (3d. Cir. 1993)).

9. Based on the description of injuries and damages in Sweigart’s Complaint, Defendants reasonably believe that the amount in controversy is in excess of the jurisdictional limit of \$75,000.

10. Sweigart alleges that Defendants caused his injuries and damages. (Exhibit “A”, paragraph 58, Count I, Count II, and Count III).

11. Sweigart alleges he sustained “serious and permanent injuries that required extended hospitalizations and rehabilitation...”. (Exhibit “A”, paragraph 57).

12. Specifically, Sweigart states that his injuries include “severe crushing injuries to his abdomen, lower back, and pelvis; and open book pelvic injury with right hip dislocation and acetabular fracture; open fractures along both legs; closed fractures of his lumbar vertebra (L1 through L4) and of multiple ribs on both sides; and lacerations to his anus, kidney, abdominal wall, and lower right quadrant. Mr. Sweigart’s right leg was amputated below the knee; because of the severe injuries to and infection of his left leg, he had had limited ability to stand and to walk since the accident and is still at risk for losing the left leg”. (Exhibit “A”, paragraph 56).

13. Sweigart avers that “over \$970,000 has been paid for the treatment of Mr. Sweigart’s injuries, which included: a massive crush injury of the pelvis and multiple fractures of the legs, lower ribs and vertebrae; the permanent placement of a colostomy bag and urinary catheter; a neurogenic bladder; and the amputation of his right leg below the knee”. (Exhibit “A”, paragraph 8).

14. Sweigart also states that he has not been able to return to work and claims a loss of earnings and future loss of earning capacity. (Exhibit “A”, paragraph 60).

15. Sweigart alleges that his injuries may require “future medical care projected to exceed \$5.25 million”. (Exhibit “A”, paragraph 8).

16. However, if Plaintiff stipulates that Plaintiff’s damages do not exceed \$75,000.00, Defendants will withdraw their Notice of Removal and will agree to remand this action to State Court. (A copy of the proposed Stipulation is attached as Exhibit “B”). See, Johnson at *9 (finding that it was legally significant that the plaintiff would not stipulate that the value of plaintiff’s claim was

less than \$75,000, in deciding that the amount of damages satisfied the jurisdictional minimum pursuant to 28 U.S.C. § 1332).

C. Venue

17. Venue is properly laid in this District Court, pursuant to 28 U.S.C. § 1441(a), because it is the District that encompasses the State Court in which the action was originally filed.

D. Conclusion

18. Pursuant to 28 U.S.C. § 1332(a), based upon the diversity of citizenship between the Plaintiff and Defendants, removal pursuant to 28 U.S.C. § 1441(a) is appropriate.

19. Written notice of this filing will be provided to the parties and a copy of this Notice of Removal will be filed with the Prothonotary of the Pennsylvania Court of Common Pleas, Philadelphia County.

20. A jury of twelve (12) is demanded.

WHEREFORE, Defendants Kevin Patten and Voyager Trucking Corp. respectfully requests that this Honorable Court assume jurisdiction of this pending action presently pending in the Court of Common Pleas of Philadelphia County.

Respectfully submitted,

LAW OFFICES OF THOMAS J. WAGNER, LLC

BY: 

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